

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JEREMY A. KENYON and ALEX K. ST. JOHN

Appeal No. 2005-0490
Application 09/399,065

ON BRIEF

Before KRASS, JERRY SMITH and NAPPI, Administrative Patent Judges.

JERRY SMITH, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 1-38, which constitute all the claims in the application.

The disclosed invention pertains to a method and apparatus for streaming multi-media content. Multiple versions of model data tailored for different operating environments and differentiated in accordance with values of at least one operating characteristic of a remote requesting client computer system are stored in a multi-media content providing server. A multi-media content player of a client computer system determines operating characteristic values for the at least one operating characteristic of the client computer system. The multi-media content player adaptively requests appropriate versions of selected ones of the model data, which comprises geometry data, based at least in part on the determined operating characteristic values of the at least one operating characteristic of the client computer system.

Representative claim 1 is reproduced as follows:

1. In a client computer system, a method of operation comprising:

determining operating characteristic value(s), by the client system, for at least one operating characteristic of the client computer system;

adaptively requesting, by the client system, streaming of model data, comprising geometry data, from a remote content providing server, adjusting said requesting based at least in part on the determined operating characteristic value(s) of the at least one operating characteristic of the client computer system.

Appeal No. 2005-0490
Application 09/399,065

The examiner relies on the following reference:

Li et al. (Li)	6,345,279	Feb. 05, 2002
		(filed Apr. 23, 1999)

Claims 1-10, 12-21 and 23-38 stand rejected under 35 U.S.C. § 102(e) as being anticipated by the disclosure of Li. Claims 11 and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the teachings of Li.

Rather than repeat the arguments of appellants or the examiner, we make reference to the briefs and the answer for the respective details thereof.

OPINION

We have carefully considered the subject matter on appeal, the rejections advanced by the examiner and the evidence of anticipation and obviousness relied upon by the examiner as support for the rejections. We have, likewise, reviewed and taken into consideration, in reaching our decision, the appellants' arguments set forth in the briefs along with the examiner's rationale in support of the rejections and arguments in rebuttal set forth in the examiner's answer.

It is our view, after consideration of the record before us, that the disclosure of Li does not fully meet nor render obvious the invention as set forth in the claims on appeal. Accordingly, we reverse.

Appeal No. 2005-0490
Application 09/399,065

We consider first the rejection of claims 1-10, 12-21 and 23-38 as being anticipated by Li. Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); cert. dismissed, 468 U.S. 1228 (1984); W.L. Gore and Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

Appellants have indicated that for purposes of this appeal the claims subject to this rejection will stand or fall together in the following two groups: Group I has claims 1-7, 10, 12-18, 21, 23-31 and 34-38, and Group II has claims 8, 9, 19, 20, 32 and 33. Consistent with this indication appellants have made no separate arguments with respect to any of the claims within each group. Accordingly, all the claims within each group will stand or fall together. Note In re King, 801 F.2d 1324, 1325, 231 USPQ 136, 137 (Fed. Cir. 1986); In re Sernaker, 702 F.2d 989, 991, 217 USPQ 1, 3 (Fed. Cir. 1983). Therefore, we will consider

the rejection against claims 1 and 8 as representative of all the claims on appeal.

The examiner has indicated how he reads the invention of claim 1 on the disclosure of Li [answer, page 3]. Appellants argue that Li fails to disclose a system for adaptively requesting model data which comprises geometry data as claimed. Appellants argue that Li only teaches the adjustment of the fidelity of different transmitted data items. Appellants assert that video data, image data, audio data and textual data of different fidelity, as taught by Li, does not teach or suggest model data comprising geometric data as claimed [brief, pages 4-6]. The examiner responds that the InfoPyramid data of Li meets the claimed model data comprising geometric data [answer, page 17]. Appellants respond that the InfoPyramid data of Li does not anticipate the model data comprising geometry data, and that the examiner has failed to address appellants' arguments in the brief [reply brief, pages 1-2].

We will not sustain the examiner's rejection of representative claim 1 for the reasons argued by appellants in the briefs. We agree with appellants that the InfoPyramid data disclosed by Li is not described as being representative of model data comprising geometry data. The invention of claim 1 requires

a request for the streaming of geometry data. There is no indication in Li that any of the multi-media content transmitted therein constitutes geometry data. As noted by appellants, geometry data refers to object surfaces represented by items such as splines and triangle tessellation. Li makes no mention of such geometry data.

Since independent claims 12, 23, 26 and 29 contain recitations similar to independent claim 1, we also do not sustain the anticipation rejection of any of these independent claims. Since none of the independent claims are anticipated by Li, it follows that none of the dependent claims can be anticipated by Li. With respect to the rejection of dependent claims 11 and 22 under 35 U.S.C. § 103, this rejection fails because of the deficiencies of Li discussed above.

Appeal No. 2005-0490
Application 09/399,065

In summary, we have not sustained either of the examiner's rejections of the claims on appeal. Therefore, the decision of the examiner rejecting claims 1-38 is reversed. .

REVERSED

E. A. Kover

ERROL A. KRAŠS
Administrative Patent Judge

Gerry Smith
JERRY SMITH

JERRY SMITH
Administrative Patent Judge

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Appeal No. 2005-0490
Application 09/399,065

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